

PRISON REFORM.

The Sentence of the Court Imposed
by Judge Pugh.

SHORT SPEECH IN REPLY

To the Question of Why Sentence Should Not
Be Passed—The Malice of Pugh and His Ex-
ploitation of a Telegram from a Friend—Sheriff
Custer's Morosities and the Scene in the Jail
With the Journal Reporter at Midnight.

PART II.

TWENTY-THIRD PAPER.

(The writer of the following was sentenced to life imprisonment in the Ohio Penitentiary for fighting a street duel in which the defamer of his family was killed. Pardoned after eight years imprisonment, he proposes in the columns of the Globe to tell "a plain, unvarnished tale" of life in a modern penitentiary. —EDITOR.)

The verdict was returned Monday, August 3, 1901, and I was remanded for sentence on the following Saturday, August 8th. Meanwhile, efforts were directed by my friends to induce Judge Pugh to permit me to remain in the county jail pending my appeal to the Circuit or Supreme Court, as it was a foregone conclusion that he would overrule the motion to set aside the verdict. To all such appeals he cynically put the query, "How do you know that there will be any necessity for an appeal, or that I will not set aside the verdict?" Mr. John Joyce, the millionaire, whose daughter was divorced by the judge's suspected decision, appealed to him, and sent me word that Pugh had promised him to permit me to remain in jail pending the appeal, provided he could not find sufficient grounds to set aside the verdict.

Saturday arrived in due time, and the court-house was again packed to hear the sentence pronounced. Judge Pugh ascended the bench and read a telegram from Hon. W. S. Cappellari, editor of the *Massachusetts News*, requesting that I be permitted to remain in the jail and not transferred to the penitentiary pending my appeal to the Supreme Court. Judge Pugh read this telegram in dramatic style and commented on it severely. It created a sensation, which the Columbus newspapers were not slow to make the most of, commending the judge as usual for his fearless administration of law. When it is understood that Mr. Cappellari was State chairman of the Republican party and a friend and patron of Pugh, some idea may be formed of the character of the man. The dispatch was confidential, and was simply the private message of one friend to another, but Pugh saw a chance to make a point at the expense of his friend, and as he never neglected such opportunities, Mr. Cappellari found himself the target for unmeasured abuse by the Columbus press. He stood bravely up, however, and hit back, and plainly informed those sheets that I did not have a fair and impartial trial, such as the Constitution provided, and it was principally due to the violent and disgraceful course of the Columbus newspapers.

In passing sentence, Pugh went through the perfunctory provision in such cases, of asking the prisoner at the bar what he had to say why sentence should not be pronounced. For the intervening days from my conviction to the day of sentence my counsel begged and pleaded with me to say but a few words as possible to the question of the court. They argued that in an appeal of my case any intemperate language I might use when sentence was pronounced would operate against me in the upper courts. Of course, I knew who it was that was so anxious I should say nothing, or at best, but a few words. Pugh dreaded my impulsive disposition, and that his betrayal of me would form the subject of my remarks. However, I promised to say but as little as possible, and reassured my counsel that nothing personal would be uttered. Therefore, in reply to his question, I said in substance:

"If it please the court, I am called upon in the customary manner to show cause why sentence should not be pronounced. As there is but one sentence you can pass for the grade of crime of which I stand convicted, and as your duty is not only perfunctory but mandatory in the matter, the few remarks I desire to make are not offered in mitigation of the crime or with any hopes of lessening the penalty provided by law. You empaneled a jury to try me for my life or liberty which, I believe, and my counsel informs me, was not such a one as the Constitution and laws of this Commonwealth provides should sit in judgment in my case. You accepted five jurors, who testified under oath that they believed me guilty but would assume perfunctorily my innocence, a duality of mind which is as absurd as it is impossible, and manifestly and grossly prejudicial to an accused person, especially in the grave crime, the highest known to the law, for which I was arraigned at this bar. The testimony upon which I have been condemned was, if anything, a preponderance of perjury, whether conscious or unconscious on the part of the witnesses, for the State. I do not wish to be understood as positively asserting that the State's witnesses committed deliberate perjury, and, indeed, I believe that the majority of them testified honestly as they recalled the facts or saw the incidents they related. But I know, if the court please, that I was justified by the moral law, if not by the legal statutes of this State in doing what I did on February 23d, and, under like conditions, I would, though the gibbet stood at my elbow, do the same thing to-day, to-morrow, and throughout eternity. No man dare insult my family and those whom God ordained me to protect while I have life or liberty to resent it. You, sir, have known me personally; the State's counsel knew me equally well; I have lived in the light of the broadest publicity in this city for the past 12 years, and I here challenge the bench, the bar, and the public to produce an iota of evidence against my integrity and character, the purity of my life or the unimpeachable

virtue of the family of which I am the head. This challenge, if the court please, has been thrown down to the State when the opportunity still existed to accept the same. It is now in like manner offered to the court, more, indeed, to emphasize, if your honor please, my fearless acceptance of an unjust sentence than with any intention of exciting sympathy either in the court, the press, or the public. I hold my honor dearer than that liberty your sentence is about to deprive me of, and it is this heritage of unsullied character—the last and most prized of my possessions—I wish to leave my wife and children untarnished by the evidence which condemns me to a felon's cell.

I have held my head on a level with your honor's and with the best and highest citizens of Columbus (here the judge nodded an assent), and now, in this supreme and solemn hour of an untoward destiny, I gratefully thank the God of my fathers that I fall in the vindication of pure womanhood and in defense of my wife and family. If this is to be the end, I salute with the fortitude of my race the decrees of Providence, and take to my cell the consolation that my pen and voice were ever at the service of the unfortunate and the oppressed. I am now ready to hear the sentence of the court."

The judge heaved a great sigh of relief. He was nervous and fidgety during the few minutes it took me to deliver the extempore remarks quoted, evidently expecting that my "impeccable temper" would become uncontrollable and that I would break out in fierce denunciation of his covering self. It took him several minutes to recover from his pleased surprise. He then, without the usual reference to "a fair trial and impartial verdict and just punishment," passed the sentence provided by law.

"Will your honor permit the prisoner to remain in jail pending an appeal to the Circuit Court?" "Not an hour; not a minute longer than is necessary to make out the papers for his transfer to the penitentiary," fiercely responded Pugh. Now that all danger of any exposure of his conduct had passed and my last opportunity was gone to tell the public how he negotiated, through Detective Burns to become my trial judge, Pugh's courage and vindictiveness in equal parts asserted themselves, and he swelled and puffed himself to double his usual size, as he loudly exclaimed: "Sheriff, remove the prisoner."

By my express wishes none of my family or kinsfolk were in court to hear my sentence, and they awaited me in the jail, where I communicated to them Pugh's decision. This was the first breakdown and the last of my wife and children. I ascertained that the papers would be ready Monday morning, and I therefore made all my arrangements to be transferred to the penitentiary on that day. The State's prison being located in Columbus, my transfer worked no other hardship than the deprivation of unrestricted interviews with my wife and children, over and above, of course, the humiliation and disgrace of becoming a convict. But I had no difficulty in pointing out to wife, children and relatives that the disgrace of being a criminal or convict lay in the crime committed and not in the penalty paid, and that inasmuch as I had committed no crime, and was neither a criminal by instinct, design, or act, therefore, the disgrace touched me not, and I simply bowed to the superior but unjustly exercised powers of the State. Besides, I would surely be granted a new trial, and as the Supreme Court met in October, I would only be in the penitentiary a few months. My counsel, General Powell, also added some consolation in stating that I would be transferred back to the jail as soon as my petition was filed, which would be as soon as he could get the record, which was voluminous, prepared. It would take a few hundred extra dollars to prepare the record, and Pugh assured him that he would order my transfer, as was customary, back to the jail when the appeal was lodged with the clerk of the Supreme Court. On Saturday afternoon the general called to get a check to pay for the record. He then said: "Colonel, I am completely fagged out from this case, and I am going to Atlantic City for a few weeks, with my wife. Meantime the preparation of the record will be going on. I will return when the typewritten volume is ready, get Pugh to sign it, and have you back here in six weeks. Now, I need a little money for the trip."

"How much do you want, Tom?"

"Well, about \$300; I guess that will be enough."

I gave him the money, of course, to recuperate his exhausted energies and enjoy himself at Atlantic City. I spent my last Sunday in the jail of Franklin County with my wife and children, who spent the afternoon in my cell by the courtesy of the sheriff, Brice Custer, a half-brother of the ill-fated and gallant general who was butchered with his command by Sitting Bull and his band of Indians.

This sheriff, Custer, was, however, unlike the brilliant, fearless, and dashing soldier. He was uncouth in appearance, and a small politician who begged and crawled his way to the shrievalty nomination, and was elected on his brother's name and renown. My paper supported his pretensions, and he always expressed unbounded gratitude, but when I became his prisoner all this was changed. He bowed before the mob and the newspapers, and in every way made things uncomfortable and disagreeable for me in the jail. Such privileges as I enjoyed were secured by counsel, and simply consisted in an hour's walk in the short, narrow corridor of the jail every evening. To a man of my active life, confinement in a cell was intolerable, and but that I was permitted writing materials, books, etc., I do not think I could have survived to reach the more open and unrestricted confinement of the penitentiary. Custer was exceedingly gruff and unsocial, but not so a temporary deputy sheriff, a person friend. This poor fellow brought to my cell one night the impression of the jail keys in wax, and informed me that himself and some of my friends were going to have keys made and liberate me. I had the first good laugh of my imprisonment at the proposition, and exceedingly surprised my well-meaning friend by informing him that if the jail doors were left open I would not escape, for "Tom," said I, "to run in

this instance, my poor fellow, is to confess guilt and acknowledge that I committed a crime in vindicating the honor of my family."

"Tom" saw the point after some time and did everything he could to secure from the sheriff more liberty for myself and brother, but the sheriff, while not at all afraid of any attempt to escape, was frightfully sensitive to the criticisms of the papers, which continually harped on the unusual privileges allowed us in the frequent visits of our families and the fact that we were permitted to have our food sent in from a neighboring restaurant (for which we, of course, paid) "instead of eating the jail food like other prisoners."

I draw the veil over the parting with my wife and children that Sunday afternoon, and the packing up of my effects in the jail to be removed to my residence. The bitterness of death was passed for me as I watched through the bars of the cell the sinking sun and realized that on the morrow I would be an inmate of the penitentiary, cut off from that world in which I took such an active, if not conspicuous part, and deprived of the companionship of wife and children. My brother, in the upper corridor, was not permitted the poor privilege of paying me a parting visit, and 20 times during that night Custer or his son found some excuse to visit my cell and awaken me. He frankly informed me on his last visit that the State Journal insisted I had committed suicide, and that a reporter of the paper was then at the jail, and would only be satisfied that the report was not true by seeing me or hearing my voice.

"Tell him to come in, then, Mr. Sheriff."

The reporter entered and stood in the narrow corridor, separated from me by the bars of the cell.

"So, Bowersmith, you have heard for the hundredth time that I have

succeeded, have you?"

"Well, Colonel, such was the report, and it was so well authenticated that I felt justified in having you awakened."

"Listen to me, Dan. I do not blame you for being unable to comprehend my character and motives; there are too many dunghills in your list of acquaintances. I would not commit suicide though I knew to a certainty that I should spend 30 years in the penitentiary. For, no matter how many years I may be confined, I shall live through it to expose the villainy and conspiracy of which I am the victim, and mark my words, I shall live prophecy is on me in this midnight hour, I feel that the God who rules the destinies of mankind and who knows all will spare me to yet write the obituaries of curs like you and the pack of cowardly whelps in the press and out of it, in this city, who have persecuted and temporarily ruined the man you dared not face when at liberty. Go back and tell your readers that it will be a long time before another set of mongrel curs dare insult in the newspapers the wife and female relatives of a dead-game Irishman."

(To be continued.)

BARLOW AND GORDON.

An Incident of the Bloody Battle-field of Gettysburg.

DEVOTION OF A DYING SOLDIER

To the Noble Wife of His Bosom—The Gallant
Gordon Performs a Most Humane and Soldierly
Act—Meeting in Washington of the Two
Generals—Magnificent Illustration of True
American Soldierhood by Judge T. J. Mackey.

Though never a war was fought with more earnestness than our own late war between the North and the South, never a war was marked by more deeds of noble kindness between the men, officers and privates of the contending sides. Serving at the front during the entire war as a captain of engineers in the Confederate army, many such deeds came under my own personal observation, while many more have been related to me by credible eye-witnesses. Here is one especially worthy of record.

The advance of the Confederate line of battle commenced early on the morning of July 1, 1863, at Gettysburg. The infantry division commanded by Maj.-Gen. John B. Gordon, of Georgia, was among the first to attack. Its objective point was the left of the Second Corps of the Union army. The darling commander of that corps occupied a position so far advanced beyond the main line of the Federal army that, while it invited attack, it placed him beyond the reach of ready support when the crisis of battle came to him in the rush of charging lines more extended than his own. The Confederate advance was steady, and it was bravely met by the Union troops, who for the first time found themselves engaged in battle on the soil of the North, which until then had been virgin to the war. It was "a far cry" from Richmond to Gettysburg, yet Lee was in their front, and they seemed resolved to welcome their Southern visitors "with bloody hands to hospitable graves." But the Federal flanks rested in air, and, being turned, the line was badly broken, and, despite a bravely resolute defense against the well-ordered attack of the Confederate veterans, was forced to fall back.

Gordon's division was in motion at a double quick, to seize and hold the advantageous ground in his front, from which the opposing line had retreated, when he saw directly in his path the apparently dead body of a Union officer. He checked his horse, and then observed, from the motion of the eyes and lips, that the officer was still living. He at once dismounted, and, seeing that the head of his wounded foe was lying in a depression in the ground, placed under it a nearby knapsack. While raising him at the shoulder for that purpose, he saw that the blood was trickling from a bullet-hole in the back, and then knew that the officer had been shot through the breast. He then gave him a drink from a flask of brandy and water, and, as the man revived, said, while bending

over him: "I am very sorry to see you in this condition. I am General Gordon. Please tell me who you are. I wish to aid you all I can."

The answer came in feeble tones: "Thank you, General. I am Brigadier-General Barlow of New York. You can do nothing more for me; I am dying." Then, after a pause, he said: "Yes, you can; my wife is at the headquarters of General Meade. If you survive the battle, please let her know that I died doing my duty."

General Gordon replied: "Your message, if I live, shall surely be given to your wife. Can I do nothing more for you?"

After a brief pause, General Barlow responded: "May God bless you! Only one thing more. Feel in the breast pocket of my coat—the left breast—and take out a packet of letters."

As General Gordon unbuttoned the blood-soaked coat and took out the packet, the seemingly dying soldier said: "Now please take out one and read it to me. They are from my wife. I wish that her words shall be the last I hear in this world."

Resting on one knee at his side, General Gordon, in clear tones, but with tearful eyes, read the letter. It was the missive of a noble woman to her worthy husband, whom she knew to be in daily peril of his life, and with pious fervor breathed a prayer for his safety and commended him to the care of the God of battles. As the reading of the letter ended, General Barlow said: "Thank you. Now please tear them all up. I would not have them read by others."

General Gordon tore them into fragments, and scattered them on the field "shot-down and bladed thick with steel." Then, pressing General Barlow's hand, General Gordon bade him good-by, and mounting his horse, quickly joined his command.

He hastily penned a note on the pommel of his saddle, giving General Barlow's message to his wife, but stated that he was still living, though seriously wounded, and informing her where he lay. Addressing the note to "Mrs. General Barlow, at General Meade's headquarters," he handed it to one of his staff, and told him to place a white handkerchief upon his sword, and ride in a gallop toward the enemy's line, and deliver the note to Mrs. Barlow. The officer promptly obeyed the order. He was not fired upon, and, on being met by a Union officer who advanced to learn his business, he presented the note, which was received and read with the assurance that it should be delivered instantly.

Let us turn from Gettysburg to the capital, Washington, where, eleven years later, General Gordon held with honor a seat as Senator of the United States, and was present at a dinner party given by Orlando B. Potter, a representative in Congress from the State of New York.

Upon Mr. Potter's introducing to him a gentleman with the title of General Barlow, General Gordon remarked: "Are you a relative of the General Barlow, a gallant soldier, who was killed at Gettysburg?"

The answer was: "I am the General Barlow who was killed at Gettysburg, and you are the General Gordon who succeeded me!" The meeting was worthy of two such brave men—every inch American soldiers.

I should add that, on receiving her husband's note, which had been speedily delivered, Mrs. Barlow hastened to the field, though not without danger to her person, for the battle was still in progress. She soon found her husband, and had him borne to where he could receive surgical attendance.

Through her devoted ministrations he was enabled to resume his command of the "Excelsior Brigade," and add to the splendid reputation which it had achieved under General Sickles, its first commander.

An Artistic Roast.

EDITOR SUNDAY GLOBE:
If you happen to be coming down Eleventh street N. W., or sauntering along Pennsylvania avenue, just stop at the Franklin statue. There is something that assembles itself together at that place every evening at 8 o'clock, not before or any later, because it is very prompt. I don't know what you call it, but it is neither a raven nor an ostrich; some might say it is a culture, but many call it a preacher.

We have heard of quack doctors, and I think it might be safe to call it a quack preacher, for all old hens quack. Especially when they are well fed. They get all puffed up, as Scripture tells us. When you have landed somewhere near the Franklin statue, please throw anchor and take both ears and see if you can understand this quack preacher and try to solve the riddle as Daniel did. I would especially invite some of the learned divines of our city to come forward and listen to this quack and see what you can make of his theory and doctrine, which he is spreading in this community, as people are puzzled. It has told the public that it has traveled very extensively, used to be wealthy once upon a time, and that it had great learning, was master of Greek and Latin, and a great theologian, but it is as full of vanity and egotism as a skunk is full of water. In fact, it stands there every evening and unmercifully denounces all churches and missions, even the Salvation Army, which has done so much good throughout the entire world. This means that the quack denounces Christ. On Sunday afternoon it gets over into the ladies' meeting at the People's Mission, and there it tries to preach love, and you ought to see it. It feels proud among the ladies, and does wondrously. It reminds me of an old peacock in the barnyard at home, with his tail spread all out. Proud? Why? why can't you touch it. Its whiskers get stiff as a porcupine, and the arrows hit the ceiling, but no further.

I should advise the authorities to stop this blathering preacher until he can bring forth substantial recommendations and credentials from some person, somewhere, and prove who and what he is, and what he is trying to do, or what his object is. His teachings are driving young men from our churches; making infidels and doubters of them. It is the duty of every father and mother whose children are on the street to help stop this blathering scoundrel from spreading his false doctrine in this city.

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